

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 04/16/2008 (Per: RPN/RLR)




Appendix A ... Part 16 of 16

 The 2007 drafting file for LRB-2341/1

has been transferred to the drafting file for

2007 LRB-0517

(AB 400 ... Wisconsin Act 200)

 The attached 2007 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the attached drafting file were added, as an appendix, to the new 2007 drafting file. This section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

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1 **322.079 Article 79—Conviction of lesser included offense.** An accused
2 may be found guilty of an offense necessarily included in the offense charged or of an
3 attempt to commit either the offense charged or an offense necessarily included.

4 **322.080 Article 80—Attempts.** (1) An act, done with specific intent to
5 commit an offense under this code, amounting to more than mere preparation and
6 tending, even though failing, to effect its commission, is an attempt to commit that
7 offense.

8 (2) Any person who attempts to commit any offense punishable by this code
9 shall be punished as a court-martial may direct, unless otherwise specifically
10 prescribed.

11 (3) Any person may be convicted of an attempt to commit an offense although
12 it appears on the trial that the offense was consummated.

13 **322.081 Article 81—Conspiracy.** Any person who conspires with any other
14 person to commit an offense under this code shall, if one or more of the conspirators
15 does an act to effect the object of the conspiracy, be punished as a court-martial may
16 direct.

17 **322.082 Article 82—Solicitation.** (1) Any person who solicits or advises
18 another or others to desert in violation of s. 322.085 or mutiny in violation of s.
19 322.094 shall, if the offense solicited or advised is attempted or committed, be
20 punished with the punishment provided for the commission of the offense, but, if the
21 offense solicited or advised is not committed or attempted, the person shall be
22 punished as a court-martial may direct.

23 (2) Any person who solicits or advises another or others to commit an act of
24 misbehavior before the enemy in violation of s. 322.099 or sedition in violation of s.
25 322.094 shall, if the offense solicited or advised is committed, be punished with the

BILL**SECTION 2**

1 punishment provided for the commission of the offense, but, if the offense solicited
2 or advised is not committed, the person shall be punished as a court-martial may
3 direct.

4 **322.083 Article 83—Fraudulent enlistment, appointment, or**
5 **separation.** Any person who does any of the following shall be punished as a
6 court-martial may direct:

7 (1) Procures his or her own enlistment or appointment in the state military
8 forces by knowingly false representation or deliberate concealment as to his or her
9 qualifications for that enlistment or appointment and receives pay or allowances
10 there under.

11 (2) Procures his or her own separation from the state military forces by
12 knowingly false representation or deliberate concealment as to his or her eligibility
13 for that separation.

14 **322.084 Article 84—Unlawful enlistment, appointment, or separation.**
15 Any person who effects an enlistment or appointment in or a separation from the
16 state military forces of any person who is known to him or her to be ineligible for that
17 enlistment, appointment, or separation because it is prohibited by law, regulation,
18 or order shall be punished as a court-martial may direct.

19 **322.085 Article 85—Desertion.** (1) Any member of the state military
20 forces is guilty of desertion if he or she does any of the following:

21 (a) Without authority goes or remains absent from his or her unit, organization,
22 or place of duty with intent to remain away there from permanently.

23 (b) Quits his or her unit, organization, or place of duty with intent to avoid
24 hazardous duty or to shirk important service.

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1 (c) Without being regularly separated from one of the state military forces
2 enlists or accepts an appointment in the same or another one of the state military
3 forces, or in one of the armed forces of the United States, without fully disclosing the
4 fact that he or she has not been regularly separated, or enters any foreign armed
5 service except when authorized by the United States.

6 (2) Any commissioned officer of the state military forces who, after tender of
7 his or her resignation and before notice of its acceptance, quits his or her post or
8 proper duties without leave and with intent to remain away there from permanently
9 is guilty of desertion.

10 (3) Any person found guilty of desertion or attempt to desert shall be punished,
11 if the offense is committed in time of war, by confinement of not more than 10 years
12 or other punishment as a court-martial may direct, but if the desertion or attempt
13 to desert occurs at any other time, by punishment as a court-martial may direct.

14 **322.086 Article 86—Absence without leave.** Any person who, without
15 authority, does any of the following shall be punished as a court-martial may direct:

16 (1) Fails to go to his or her appointed place of duty at the time prescribed.

17 (2) Goes from that place.

18 (3) Absents himself or herself or remains absent from his or her unit,
19 organization, or place of duty at which he or she is required to be at the time
20 prescribed.

21 **322.087 Article 87—Missing movement.** Any person who through neglect
22 or design misses the movement of a ship, aircraft, or unit with which he or she is
23 required in the course of duty to move shall be punished as a court-martial may
24 direct.

BILL**SECTION 2**

1 **322.088 Article 88—Contempt toward officials.** Any commissioned officer
2 who uses contemptuous words against the president, the vice-president, members
3 of congress, the secretary of defense, the secretary of a military department, the
4 secretary of homeland security, or the governor or legislature of the state of
5 Wisconsin shall be punished as a court-martial may direct.

6 **322.089 Article 89—Disrespect toward superior commissioned officer.**
7 Any person who behaves with disrespect toward his or her superior commissioned
8 officer shall be punished as a court-martial may direct.

9 **322.090 Article 90—Assaulting or willfully disobeying superior**
10 **commissioned officer.** A court-martial may direct punishment on any person who
11 does any of the following:

12 (1) Strikes his or her superior commissioned officer or draws or lifts up any
13 weapon or offers any violence against him or her while he or she is in the execution
14 of his or her office.

15 (2) Willfully disobeys a lawful command of his or her superior commissioned
16 officer.

17 **322.091 Article 91—Insubordinate conduct toward warrant officer,**
18 **noncommissioned officer, or petty officer.** Any warrant officer or enlisted
19 member who does any of the following shall be punished as a court-martial may
20 direct:

21 (1) Strikes or assaults a warrant officer, noncommissioned officer, or petty
22 officer, while that officer is in the execution of his or her office.

23 (2) Willfully disobeys the lawful order of a warrant officer, noncommissioned
24 officer, or petty officer.

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1 (3) Treats with contempt or is disrespectful in language or deportment toward
2 a warrant officer, noncommissioned officer, or petty officer, while that officer is in the
3 execution of his or her office.

4 **322.092 Article 92—Failure to obey order or regulation.** Any person who
5 does any of the following shall be punished as a court-martial may direct:

6 (1) Violates or fails to obey any lawful general order or regulation.

7 (2) Having knowledge of any other lawful order issued by a member of the state
8 military forces, which it is his or her duty to obey, fails to obey the order.

9 (3) Is derelict in the performance of his or her duties.

10 **322.093 Article 93—Cruelty and maltreatment.** Any person who is guilty
11 of cruelty toward, or oppression or maltreatment of, any person subject to his or her
12 orders shall be punished as a court-martial may direct.

13 **322.094 Article 94—Mutiny or sedition.** (1) Any person who does any of
14 the following shall be punished as a court-martial may direct:

15 (a) With intent to usurp or override lawful military authority, refuses, in
16 concert with any other person, to obey orders or otherwise do his or her duty or
17 creates any violence or disturbance is guilty of mutiny.

18 (b) With intent to cause the overthrow or destruction of lawful civil authority,
19 creates, in concert with any other person, revolt, violence, or other disturbance
20 against that authority is guilty of sedition.

21 (c) Fails to do his or her utmost to prevent and suppress a mutiny or sedition
22 being committed in his or her presence, or fails to take all reasonable means to inform
23 his or her superior commissioned officer or commanding officer of a mutiny or
24 sedition which he or she knows or has reason to believe is taking place, is guilty of
25 a failure to suppress or report a mutiny or sedition.

BILL**SECTION 2**

1 (2) A person who is found guilty of attempted mutiny, mutiny, sedition, or
2 failure to suppress or report a mutiny or sedition shall be punished as a
3 court-martial may direct.

4 **322.095 Article 95—Resistance, flight, breach of arrest, and escape.**

5 Any person who does any of the following shall be punished as a court-martial may
6 direct:

7 (1) Resists apprehension.

8 (2) Flees from apprehension.

9 (3) Breaks arrest.

10 (4) Escapes from custody or confinement.

11 **322.096 Article 96—Releasing prisoner without proper authority.** Any

12 person who, without proper authority, releases any prisoner committed to his or her
13 charge, or who through neglect or design causes any prisoner to escape, shall be
14 punished as a court-martial may direct, whether or not the prisoner was committed
15 in strict compliance with law.

16 **322.097 Article 97—Unlawful detention.** Any person who, except as

17 provided by law or regulation, apprehends, arrests, or confines any person shall be
18 punished as a court-martial may direct.

19 **322.098 Article 98—Noncompliance with procedural rules.** Any person

20 who does any of the following shall be punished as a court-martial may direct:

21 (1) Is responsible for unnecessary delay in the disposition of any case of a
22 person accused of an offense under this code.

23 (2) Knowingly and intentionally fails to enforce or comply with any provision
24 of this code regulating the proceedings before, during, or after trial of an accused.

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1 **322.099 Article 99—Misbehavior before the enemy.** Any person who
2 before or in the presence of the enemy does any of the following shall be punished as
3 a court-martial may direct:

4 (1) Runs away.

5 (2) Shamefully abandons, surrenders, or delivers up any command, unit,
6 place, or military property which it is his or her duty to defend.

7 (3) Through disobedience, neglect, or intentional misconduct endangers the
8 safety of any command, unit, place, or military property.

9 (4) Casts away his or her arms or ammunition.

10 (5) Is guilty of cowardly conduct.

11 (6) Quits his or her place of duty to plunder or pillage.

12 (7) Causes false alarms in any command, unit, or place under control of the
13 armed forces of the United States or the state military forces.

14 (8) Willfully fails to do his or her utmost to encounter, engage, capture, or
15 destroy any enemy troops, combatants, vessels, aircraft, or any other thing, which
16 it is his or her duty so to encounter, engage, capture, or destroy.

17 (9) Does not afford all practicable relief and assistance to any troops,
18 combatants, vessels, or aircraft of the armed forces belonging to the United States
19 or their allies, to the state, or to any other state, when engaged in battle.

20 **322.100 Article 100—Subordinate compelling surrender.** Any person
21 who compels or attempts to compel the commander of any of the state military forces
22 of the State, or of any other state, place, vessel, aircraft, or other military property,
23 or of any body of members of the armed forces, to give it up to an enemy or to abandon
24 it, or who strikes the colors or flag to an enemy without proper authority, shall be
25 punished as a court-martial may direct.

BILL**SECTION 2**

1 **322.101 Article 101—Improper use of countersign.** Any person who in
2 time of war discloses the parole or countersign to any person not entitled to receive
3 it or who gives to another, who is entitled to receive and use the parole or countersign,
4 a different parole or countersign from that which, to his or her knowledge, he or she
5 was authorized and required to give, shall be punished as a court-martial may
6 direct.

7 **322.102 Article 102—Forcing a safeguard.** Any person who forces a
8 safeguard shall be punished as a court-martial may direct. "Forcing a safeguard"
9 means performing any act in violation of the protection of a detachment, guard, or
10 detail posted by a commander for protection.

11 **322.103 Article 103—Captured or abandoned property.** (1) All persons
12 subject to this code shall secure all public property taken for the service of the United
13 States or the state, or of any other state, and shall give notice and turn over to the
14 proper authority without delay all captured or abandoned property in their
15 possession, custody, or control.

16 (2) Any person subject to this code who does any of the following shall be
17 punished as a court-martial may direct:

18 (a) Fails to carry out the duties prescribed in sub. (1).

19 (b) Buys, sells, trades, or in any way deals in or disposes of taken, captured, or
20 abandoned property, whereby he or she receives or expects any profit, benefit, or
21 advantage to himself or herself or another directly or indirectly connected with
22 himself or herself.

23 (c) Engages in looting or pillaging.

24 **322.104 Article 104—Aiding the enemy.** Any person who does any of the
25 following shall be punished as a court-martial may direct:

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1 (1) Aids, or attempts to aid, the enemy with arms, ammunition, supplies,
2 money, or other things.

3 (2) Without proper authority, knowingly harbors or protects or gives
4 intelligence to, or communicates or corresponds with or holds any intercourse with
5 the enemy, either directly or indirectly.

6 **322.105 Article 105—Misconduct as prisoner.** Any person who, while in
7 the hands of the enemy in time of war does any of the following shall be punished as
8 a court-martial may direct:

9 (1) For the purpose of securing favorable treatment by his or her captors acts
10 without proper authority in a manner contrary to law, custom, or regulation, to the
11 detriment of others of whatever nationality held by the enemy as civilian or military
12 prisoners.

13 (2) While in a position of authority over such persons maltreats them without
14 justifiable cause.

15 **322.107 Article 107—False official statements.** Any person who, with
16 intent to deceive, signs any false record, return, regulation, order, or other official
17 document made in the line of duty, knowing it to be false, or makes any other false
18 official statement made in the line of duty, knowing it to be false, shall be punished
19 as a court-martial may direct.

20 **322.108 Article 108—Military property — Loss, damage, destruction,**
21 **or wrongful disposition.** Any person who, without proper authority, does any of
22 the following shall be punished as a court-martial may direct:

23 (1) Sells or otherwise disposes of any military property of the United States,
24 the State, or of any state.

BILL**SECTION 2**

1 (2) Willfully or through neglect damages, destroys, or loses any military
2 property of the United States, the state, or of any state.

3 (3) Willfully or through neglect suffers to be lost, damaged, destroyed, sold, or
4 wrongfully disposed of any military property of the United States, the state, or of any
5 state.

6 **322.109 Article 109—Property other than military property — Waste,**
7 **spoilage, or destruction.** Any person who willfully or recklessly wastes, spoils, or
8 otherwise willfully and wrongfully destroys or damages any property other than
9 military property of the United States, the State, or of any state, shall be punished
10 as a court-martial may direct.

11 **322.110 Article 110—Improper hazarding of vessel.** (1) Any person who
12 willfully and wrongfully hazards or suffers to be hazarded any vessel of the armed
13 forces of the United States, this state, or any other state military forces shall suffer
14 punishment as a court-martial may direct.

15 (2) Any person who negligently hazards or suffers to be hazarded any vessel
16 of the armed forces of the United States, the state, or any other state, state military
17 forces shall be punished as a court-martial may direct.

18 **322.111 Article 111—Drunken or reckless operation of an all-terrain**
19 **vehicle, vehicle, snowmobile, aircraft, or vessel.** Any person who violates s.
20 23.33 (3) (a) or (4c), 30.68, 30.681, 114.09, 346.62, 346.63 (1) or (2), 350.10 (1) (b),
21 350.101, 940.25, or 940.09 where the offense involved the operation or physical
22 control of an aircraft, all-terrain vehicle, snowmobile, vehicle or vessel on or off a
23 highway shall be punished as the court-martial may direct.

24 **322.112 Article 112—Drunk on duty.** Any person other than a sentinel or
25 lookout, who is found drunk on duty, shall be punished as a court-martial may direct.

BILL**322.1125 Article 112a—Violations regarding controlled substances. (1)**

Any person who wrongfully uses, possesses, manufactures, distributes, imports into the customs territory of the United States, exports from the United States, or introduces into an installation, vessel, vehicle, or aircraft used by or under the control of the armed forces of the United States, the state, or of any other state, state military forces a controlled substance, as defined in s. 961.01 (4) shall be punished as a court-martial may direct.

322.113 Article 113—Misbehavior of sentinel. Any sentinel or look-out

who is found drunk or sleeping upon his or her post or leaves it before being regularly relieved, shall be punished, if the offense is committed in time of war, by confinement of not more than 10 years or other punishment as a court-martial may direct, but if the offense is committed at any other time, by punishment as a court-martial may direct.

322.114 Article 114—Dueling. Any person who fights or promotes, or is

concerned in or connives at fighting a duel, or who, having knowledge of a challenge sent or about to be sent, fails to report the fact promptly to the proper authority.

322.115 Article 115—Malingering. Any person who for the purpose of

avoiding work, duty, or service does any of the following shall be punished as a court-martial may direct:

(1) Feigns illness, physical disablement, mental lapse, or derangement.

(2) Intentionally inflicts self-injury.

322.116 Article 116—Riot or breach of peace. Any person who causes or

participates in any riot or breach of the peace shall be punished as a court-martial may direct.

BILL**SECTION 2**

1 **322.117 Article 117—Provoking speeches or gestures.** Any person who
2 uses provoking or reproachful words or gestures towards any other person subject
3 to this code shall be punished as a court-martial may direct.

4 **322.120 Article 120—Rape and carnal knowledge. (1)** Any person who
5 commits an act of sexual intercourse, by force and without consent, is guilty of rape
6 and shall be punished as a court-martial may direct.

7 **(2)** Any person subject to this chapter who, under circumstances not
8 amounting to rape, commits an act of sexual intercourse with a person who is not that
9 person's spouse, and who has not attained the age of 16 years; is guilty of carnal
10 knowledge and shall be punished as a court-martial may direct.

11 **(3)** Penetration, however slight, is sufficient to complete either of these
12 offenses.

13 **(4)** In a prosecution under sub. (2), it is an affirmative defense if all of the
14 following conditions are established:

15 (a) The person with whom the accused committed the act of sexual intercourse
16 had at the time of the alleged offense attained the age of 12 years.

17 (b) The accused reasonably believed that that person had at the time of the
18 alleged offense attained the age of 16 years.

19 **(5)** The accused has the burden of proving a defense under sub. (4) by a
20 preponderance of the evidence.

21 **322.121 Article 121—Larceny and wrongful appropriation.** Any person
22 who wrongfully takes, obtains, or withholds, by any means, from the possession of
23 the owner or of any other person any money, personal property, or section of value
24 of any kind if any of the following apply shall be punished as a court-martial may
25 direct:

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1 (1) With intent permanently to deprive or defraud another person of the use
2 and benefit of property or to appropriate it to his or her own use or the use of any
3 person other than the owner, steals that property and is guilty of larceny.

4 (2) With intent temporarily to deprive or defraud another person of the use and
5 benefit of property or to appropriate it to his or her own use or the use of any person
6 other than the owner, is guilty of wrongful appropriation.

7 **322.122 Article 122—Robbery.** Any person who with intent to steal takes
8 anything of value from a person or in the presence of another person, against his or
9 her will, by means of force or violence or fear of immediate or future injury to his or
10 her person or property or to the person or property of a relative or member of his or
11 her family or of anyone in his or her company at the time of the robbery, is guilty of
12 robbery and shall be punished as a court-martial may direct.

13 **322.123 Article 123—Forgery.** Any person who, with intent to defraud who
14 does any of the following shall be punished as a court-martial may direct:

15 (1) Falsely makes or alters any signature, to, or any part of, any writing which
16 would, if genuine, apparently impose a legal liability on another or change his or her
17 legal right or liability to his or her prejudice.

18 (2) Utters, offers, issues, or transfers a writing, known by him or her to be so
19 made or altered; is guilty of forgery.

20 **322.1235 Article 123a—Making, drawing, or uttering check, draft, or**
21 **order without sufficient funds.** Any person who does any of the following shall
22 be punished as a court-martial may direct:

23 (1) Procures any section or thing of value, with intent to defraud.

24 (2) Pays any past due obligation, or for any other purpose, with intent to
25 deceive; makes, draws, utters, or delivers any check, draft, or order for the payment

BILL**SECTION 2**

1 of money upon any bank or other depository, knowing at the time that the maker or
2 drawer has not or will not have sufficient funds in, or credit with, the bank or other
3 depository for the payment of that check, draft, or order in full upon its presentment.

4 The making, drawing, uttering, or delivering by a maker or drawer of a check, draft,
5 or order, payment of which is refused by the drawee because of insufficient funds of
6 the maker or drawer in the drawee's possession or control, is prima facie evidence of
7 his or her intent to defraud or deceive and of his or her knowledge of insufficient
8 funds in, or credit with, that bank or other depository, unless the maker or drawer
9 pays the holder the amount due within 5 days after receiving notice, orally or in
10 writing, that the check, draft, or order was not paid on presentment.

11 (3) In this section, the word "credit" means an arrangement or understanding,
12 express or implied, with the bank or other depository for the payment of that check,
13 draft, or order.

14 **322.124 Article 124—Maiming.** Any person who, with intent to injure,
15 disfigure, or disable, inflicts on the person of another an injury which does any of the
16 following shall be punished as a court-martial may direct:

17 (1) Seriously disfigures his or her person by a mutilation.

18 (2) Destroys or disables any member or organ of his or her body.

19 (3) Seriously diminishes his or her physical vigor by the injury of any member
20 or organ.

21 **322.126 Article 126—Arson.** Any person who does any of the following shall
22 be punished as a court-martial may direct:

23 (1) Willfully and maliciously burns or sets on fire an inhabited dwelling, or any
24 other structure, movable or immovable, in which the offender knows there is at the
25 time a human being, is guilty of aggravated arson.

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1 (2) Willfully and maliciously burns or sets fire to the property of another, except
2 as provided in sub. (1), is guilty of simple arson.

3 **322.127 Article 127—Extortion.** Any person who communicates threats to
4 another person with the intention of obtaining anything of value or any acquittance,
5 advantage, or immunity is guilty of extortion and shall be punished as a
6 court-martial may direct.

7 **322.128 Article 128—Assault.** Any person who does any of the following shall
8 be punished as a court-martial may direct:

9 (1) Attempts or offers with unlawful force or violence to do bodily harm to
10 another person, whether or not the attempt or offer is consummated, is guilty of
11 assault.

12 (2) Commits an assault with a dangerous weapon or other means or force likely
13 to produce death or grievous bodily harm is guilty of aggravated assault.

14 (3) Commits an assault and intentionally inflicts grievous bodily harm with or
15 without a weapon is guilty of aggravated assault.

16 **322.129 Article 129—Burglary.** Any person who, with intent to commit an
17 offense punishable under ss. 322.120 to 322.128, breaks and enters, in the nighttime,
18 the dwelling house of another, is guilty of burglary and shall be punished as a
19 court-martial may direct.

20 **322.130 Article 130—Housebreaking.** Any person who unlawfully enters
21 the building or structure of another with intent to commit a criminal offense is guilty
22 of housebreaking and shall be punished as a court-martial may direct.

23 **322.131 Article 131—Perjury.** Any person who in a judicial proceeding or in
24 a course of justice willfully and corruptly does any of the following shall be punished
25 as a court-martial may direct:

BILL**SECTION 2**

1 (1) Upon a lawful oath or in any form allowed by law to be substituted for an
2 oath, gives any false testimony material to the issue or matter of inquiry.

3 (2) In any declaration, certificate, verification, or statement under penalty or
4 perjury as permitted under 28 USC 1746, subscribes any false statement material
5 to the issue or matter of inquiry.

6 **322.132 Article 132—Frauds against the government.** Any person who
7 does any of the following knowing it to be false or fraudulent shall be punished as a
8 court-martial may direct:

9 (1) For the purpose of obtaining the approval, allowance, or payment of any
10 claim against the United States, the state, or of any state, or any officer:

11 (a) Makes or presents a claim.

12 (b) Makes or uses any writing or other paper.

13 (c) Makes any oath, affirmation or certification to any fact or to any writing or
14 other paper.

15 (2) For the purpose of defrauding the United States, the state, or of any state,
16 or any officer:

17 (a) Forges or counterfeits any signature upon any writing or other paper, or
18 uses any signature knowing it to be forged or counterfeited.

19 (b) Delivers to any person having authority to receive it, any amount less than
20 that for which he or she receives a certificate or receipt.

21 (c) Makes or delivers to any person, a writing without having full knowledge
22 of the truth of the statements contained in the writing.

23 **322.133 Article 133—Conduct unbecoming an officer and a gentleman.**

24 Any commissioned officer, cadet, candidate, or midshipman who is convicted of

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1 conduct unbecoming an officer and a gentleman shall be punished as a court-martial
2 may direct.

3 **322.134 Article 134—General section.** Though not specifically mentioned
4 in this code, all disorders and neglects to the prejudice of good order and discipline
5 in the state military forces and all conduct of a nature to bring discredit upon the
6 state military forces shall be taken cognizance of by a court-martial and punished
7 at the discretion of a military court. However, where a crime constitutes an offense
8 that violates both this code and the criminal laws of the state where the offense
9 occurs or criminal laws of the United States, jurisdiction of the military court shall
10 be determined under s. 322.002 (2).

11 SUBCHAPTER XI

12 MISCELLANEOUS PROVISIONS

13 **322.135 Article 135—Courts of inquiry.** (1) Courts of inquiry to
14 investigate any matter of concern to the state military forces may be convened by any
15 person authorized to convene a general court-martial, whether or not the persons
16 involved has requested an inquiry.

17 (2) A court of inquiry consists of 3 or more commissioned officers. For each
18 court of inquiry, the convening authority shall also appoint counsel for the court.

19 (3) Any person whose conduct is subject to inquiry shall be designated as a
20 party. Any person subject to this code who has a direct interest in the subject of
21 inquiry has the right to be designated as a party upon request to the court. Any
22 person designated as a party shall be given due notice and has the right to be present,
23 to be represented by counsel, to cross-examine witnesses, and to introduce evidence.

24 (4) Members of a court of inquiry may be challenged by a party, but only for
25 cause stated to the court.

BILL**SECTION 2**

1 (5) The members, counsel, the reporter, and interpreters of courts of inquiry
2 shall take an oath to faithfully perform their duties.

3 (6) Witnesses may be summoned to appear and testify and be examined before
4 courts of inquiry, as provided for courts-martial.

5 (7) Courts of inquiry shall make findings of fact but may not express opinions
6 or make recommendations unless required to do so by the convening authority.

7 (8) Each court of inquiry shall keep a record of its proceedings, which shall be
8 authenticated by the signatures of the president and counsel for the court and
9 forwarded to the convening authority. If the record cannot be authenticated by the
10 president, it shall be signed by a member in lieu of the president. If the record cannot
11 be authenticated by the counsel for the court, it shall be signed by a member in lieu
12 of the counsel.

13 **322.136 Article 136—Authority to administer oaths and to act as**
14 **notary. (1)** The following persons may administer oaths for the purposes of
15 military administration, including military justice:

16 (a) All judge advocates.

17 (b) All summary courts-martial.

18 (c) All adjutants, assistant adjutants, acting adjutants, and personnel
19 adjutants.

20 (d) All commanding officers of the naval militia.

21 (e) All other persons designated by regulations of the armed forces of the
22 United States or by statute.

23 (2) The following persons may administer oaths necessary in the performance
24 of their duties:

BILL

1 (a) The president, military judge, and trial counsel for all general and special
2 courts-martial.

3 (b) The president and the counsel for the court of any court of inquiry.

4 (c) All officers designated to take a deposition.

5 (d) All persons detailed to conduct an investigation.

6 (e) All recruiting officers.

7 (f) All other persons designated by regulations of the armed forces of the
8 United States or by statute.

9 (3) The signature without seal of any of the above persons, together with the
10 title of his or her office, is prima facie evidence of the person's authority.

11 **322.137 Article 137—Articles to be available.** The code and the manual for
12 courts-martial shall be made available to a member of the state military forces, upon
13 request by the member, for the member's personal examination.

14 **322.138 Article 138—Complaints of wrongs.** Any member of the state
15 military forces who believes himself or herself wronged by a commanding officer, and
16 who, upon due application to that commanding officer, is refused redress, may
17 complain to any superior commissioned officer, who shall forward the complaint to
18 the officer exercising general court-martial jurisdiction over the officer against
19 whom it is made. The officer exercising general court-martial jurisdiction shall
20 examine into the complaint and take proper measures for redressing the wrong
21 complained of; and shall, as soon as possible, send to the adjutant general a true
22 statement of that complaint, with the proceedings.

23 **322.139 Article 139—Redress of injuries to property.** (1) Whenever
24 complaint is made to any commanding officer that willful damage has been done to
25 the property of any person or that the person's property has been wrongfully taken

BILL**SECTION 2**

1 by members of the state military forces, that person may, under the regulations
2 prescribed, convene a board to investigate the complaint. The board shall consist of
3 from one to 3 commissioned officers and, for the purpose of that investigation, it has
4 power to summon witnesses and examine them upon oath, to receive depositions or
5 other documentary evidence, and to assess the damages sustained against the
6 responsible parties. The assessment of damages made by the board is subject to the
7 approval of the commanding officer, and in the amount approved by that officer shall
8 be charged against the pay of the offenders. The order of the commanding officer
9 directing charges herein authorized is conclusive on any disbursing officer for
10 payment to the injured parties of the damages so assessed and approved.

11 (2) If the offenders cannot be ascertained, but the organization or detachment
12 to which they belong is known, charges totaling the amount of damages assessed and
13 approved may be made in proportion as may be considered just upon the individual
14 members who are shown to have been present at the scene at the time the damages
15 complained of were inflicted, as determined by the approved findings of the board.

16 **322.140 Article 140—Delegation by the governor.** The governor may
17 delegate any authority vested in the governor under this code, and provide for the
18 sub-delegation of any authority, except the power given the governor by s. 322.022.

19 **322.141 Article 141—Payment of fees, costs, and expenses.** The fees and
20 authorized travel expenses of all witnesses, experts, victims, court reporters, and
21 interpreters, fees for the service of process, the costs of collection, apprehension,
22 detention and confinement, and all other necessary expenses of prosecution and the
23 administration of military justice, not otherwise payable by any other source, shall
24 be paid by the Wisconsin national guard.

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322.142 Article 142—Payment of fines and disposition. (1) Fines imposed by a military court or through imposition of nonjudicial punishment may be paid to the state and delivered to the court or imposing officer, or to a person executing their process. Fines may be collected in the following manner:

(a) By cash, cashier's check, or money order.

(b) By retention of any pay or allowances due or to become due the person fined from any state or the United States.

(c) By garnishment or levy, together with costs, on the wages, goods, and chattels of a person delinquent in paying a fine, as provided by law.

(2) Any sum so received or retained shall be deposited with the Wisconsin national guard or to where the court so directs.

(3) Nothing in this code shall be construed to prohibit restitution.

322.143 Article 143—Uniformity of interpretation. This code shall be so construed as to effectuate its general purpose to make it uniform, so far as practical, with the 10 USC ch. 47.

322.144 Article 144—Immunity for action of military courts. All persons acting under the provisions of this code, whether as a member of the military or as a civilian, shall be immune from any personal liability for any of the acts or omissions that they did or failed to do as part of their duties under this code.

SECTION 3. Initial applicability.

(1) This act first applies to acts or omissions that occur on the effective date of this subsection.

(END)